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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,493	10/24/2002	Peter Miskech	201-0763 RLC	9071

28804 7590 04/09/2003

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EXAMINER

COLETTA, LORI L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 04/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/065,493

Applicant(s)

MISKECH ET AL.

Examiner

Lori L. Coletta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 9, 13, 14 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 2-5, 8, 10-12 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because reference numbers need to be in parentheses. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities:
  - “The inner” ([0008] and [0009]) needs to be changed to --the inner panel--.
  - “The outer panels” [0010] needs to be changed to --outer panels--.
  - “A first inner panel 16” [0018] needs to be changed to --an inner panel--.
  - “A second outer panel 18” [0018] needs to be changed to --an outer panel--.
  - “Second flange 53” [0020] needs to be changed to --flange portion 53--.
  - “Flange portions 51” (page 5, line 2) needs to be changed to --flange portions 51, 53--.
  - “Panel 30” (page 5, line 3) needs to be changed to --panel 18--.Appropriate correction is required.

### *Claim Objections*

3. Claims 1-20 are objected to because of the following informalities:
  - Regarding claim 1, “said inner” (line 2) needs to be changed to --said inner panel--.
  - Regarding claim 3, “panel” (line 2) needs to be changed to --panels--.

*See same deficiency in claim 10 (line 2).*

  - Regarding claim 7, “certain plane of symmetry” (lines 2 and 6) needs to be changed to --certain first plane of symmetry--.
  - Regarding claim 14, “said outer panels” (lines 4, 6 and 8) needs to be changed to --outer panels--.

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Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 7, 9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman et al. 5,660,427.

Regarding claim 7, Freeman et al. '427 discloses a tailgate assembly (104) comprising an outer panel (142) which is symmetric about a certain plane of symmetry; an inner panel (140) which is selectively couple to said outer panel; and at least one stiffening member (144) which is coupled to and which is operatively contained between said inner panel and said outer panel, said at least one stiffening member having a face portion which is perpendicular to said certain plane of symmetry in Figure 11.

Regarding claim 9, Freeman et al. '427 discloses the tailgate assembly (104) wherein said at least one stiffening member (144) has an "I" shaped cross sectional area in Figure 11.

Regarding claim 13, Freeman et al. '427 discloses the tailgate assembly (104) wherein said inner panel (140) is symmetric about a second plane of symmetry and wherein said face portion is perpendicular to said certain second plane of symmetry in Figure 13.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 6, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. 5,660,427 in view of Sucato et al. 5,519,978.

Regarding claims 1 and 6, Freeman et al. '427 discloses a tailgate assembly (104) comprising an inner panel (140); an outer panel (142); and at least one stiffening member (144) which is operatively contained between said inner panel and said outer panel (claim 1); and wherein said at least one stiffening member (144) has a generally "I" shaped cross sectional area in Figure 11 (claim 6).

However, Freeman et al. '427 does not show said at least one stiffening member having a first flange portion which is coupled to said inner panel, a second flange portion which couple to said outer panel, and a board face portion is disposed between the first and second flange portions and which wholly resides within a single panel.

Sucato et al. '978 teaches at least one stiffening member (46) having a first flange portion (49) which is coupled to an inner panel (49), a second flange portion (50) which couple to an outer panel (20), and a board face portion (48) is disposed between the first and second flange portions and which wholly resides within a single panel in Figure 13.

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Regarding claim 1, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tailgate assembly of Freeman et al. '427 with at least one stiffening member having a first flange portion which is coupled to an inner panel, a second flange portion which couple to an outer panel, and a board face portion is disposed between the first and second flange portions and which wholly resides within a single panel, as taught by Sucato et al. '978, in order to provide rigidity and stiffness to the tailgate assembly.

Regarding claim 14, Freeman et al. '427 discloses a tailgate assembly (104) comprising an outer panel (140) having a first outer edge; an inner panel (142) which is selectively coupled to said outer panel and which includes a second outer edge; and a member (144) coupled to said outer panel (142) in Figure 11.

However, Freeman et al. '427 does not show a pair of substantially identical members which are coupled to said inner and outer panels, said pair of substantially identical members being linearly coextensive to both of said respective outer edges of said inner and outer panels, each of said pair of substantially identical members having a broad face portion which respectively forms a right angle with respect to each of said inner and outer panels, and each of said pair of substantially identical members having a pair of substantially identical flange portions which are respectively parallel to said first outer edge and said second outer edge

Sucato et al. '978 teaches a pair of substantially identical members (51) (column 1, lines 5-10) which are coupled to said inner and outer panels (26 and 27), said pair of substantially identical members being linearly coextensive to both of said respective outer edges of said inner and outer panels, each of said pair of substantially identical members having a broad face portion (51) which respectively forms a right angle with respect to each of said inner

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and outer panels (26 and 27), and each of said pair of substantially identical members having a pair of substantially identical flange portions (54 and 55) which are respectively parallel to said first outer edge and said second outer edge in Figure 16.

Regarding claim 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tailgate assembly of Freeman et al. '427 with a pair of substantially identical members which are coupled to said inner and outer panels, said pair of substantially identical members being linearly coextensive to both of said respective outer edges of said inner and outer panels, each of said pair of substantially identical members having a broad face portion which respectively forms a right angle with respect to each of said inner and outer panels, and each of said pair of substantially identical members having a pair of substantially identical flange portions which are respectively parallel to said first outer edge and said second outer edge, as taught by Sucato et al. '978, in order to provide rigidity and stiffness to the tailgate assembly.

8. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. 5,660,427 as applied to claim 14 above, and further in view of Japanese reference 359186784.

Regarding claims 18 and 19, Freeman et al. '427, as twice modified, discloses the tailgate assembly.

However, Freeman et al. '427 does not show wherein said inner panel includes a plurality of apertures (claim 18); and further comprising a cover panel which selectively covers said apertures and which is selectively attached to said inner panel (claim 19).

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Japanese reference '784 teaches an inner panel (5) includes a plurality of apertures (20) (claim 18); and further comprising a cover panel (21) which selectively covers said apertures (20) and which is selectively attached to said inner panel (5) (claim 19) in Figure 6.

Regarding claim 18 and 19, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tailgate assembly of Freeman et al. '427, as twice modified, with a cover panel which selectively covers said apertures and which is selectively attached to said inner panel, as taught by Japanese reference '784, in order to increase the rigidity of the tailgate.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. 5,660,427 as applied to claim 20 above, and further in view of Seksaria et al. 5,944,373.

Regarding claim 20, Freeman et al. '427, as thrice modified, discloses the tailgate assembly.

However, Freeman et al. '427 does not show wherein said outer panel includes an aperture and wherein said inner panel includes a tab which is selectively received by said aperture of said inner panel.

Seksaria et al. '373 teaches an outer panel (58) includes an aperture (57) and wherein said inner panel (38) includes a tab which is selectively received by said aperture of said inner panel (column 3, lines 30-35) in Figure 1.



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Regarding claim 20, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tailgate assembly of Freeman et al. '427, as thrice modified with an outer panel includes an aperture and an inner panel includes a tab which is selectively received by the aperture of the inner panel, as taught by Seksaria et al. '373, in order to provide a handle for the tailgate assembly.

***Allowable Subject Matter***

10. Claims 2-5, 8, 10-12 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter:

The recitations of the specific features of the tailgate assembly in claims 2, 8 and 15 including especially the construction of opposed and substantially identical end flanges is not taught nor is fairly suggested by the prior art of record.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited references show several other tailgate assemblies similar to that of the current invention.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is (703) 306-4614.

The examiner can normally be reached on Monday-Friday 6:30am-3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1134.

Lori L. Coletta  
Examiner  
Art Unit 3612

*Lori L. Coletta*  
Lori L. Coletta  
April 4, 2003